

CIVIL COVER SHEET

ADR ECF

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CYNTHIA BERRY

DEFENDANTS

DIVERSIFIED COLLECTION SERVICES, INC.; and DOES 1-10, inclusive

(b) County of Residence of First Listed Plaintiff NORTHAMPTON
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant ALAMEDA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

G. Thomas Martin, III (SBN 218456) PRICE LAW GROUP, APC
15760 Ventura Blvd., #1100, Encino, CA 91436
Telephone: (818) 907-2030

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|--|---|--|--|--|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input checked="" type="checkbox"/> 470 Backeater Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1692

VI. CAUSE OF ACTION

Brief description of cause:
Unlawful Debt Collection Practices

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23DEMAND \$
According to Proof

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (CIVIL R. 3-2)

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA

DATE 06/09/2012

SIGNATURE OF ATTORNEY OF RECORD

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CYNTHIA BERRY

FILED
JUN 21 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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(09)

ADR

MEJ

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

C12-03220

CYNTHIA BERRY,
Plaintiff,

vs.

DIVERSIFIED COLLECTION
SERVICES, INC.; and DOES 1 to 10,
inclusive,

Defendants.

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

Demand Does Not Exceed \$10,000

COMPLAINT

INTRODUCTION

1. This is an action for actual and statutory damages brought by plaintiff Cynthia Berry an individual consumer, against defendant Diversified Collection Services, Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") and the Rosenthal Fair Debt Collection

1 Practices Act, Cal. Civ. Code §§ 1788 *et seq.* (hereinafter “RFDCPA”), which
2 prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

3
4 **VENUE AND JURISDICTION**

5 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), Cal. Civ.
6 Code §§ 1788.30, and 28 U.S.C. § 1331 and § 1337. Venue in this District is
7 proper in that the Defendant transacts business here and the conduct complained of
8 occurred here.
9

10 **PARTIES**

11 3. Plaintiff, Cynthia Berry is a consumer, a natural person allegedly
12 obligated to pay any debt, residing in the state of Pennsylvania.
13

14 4. Defendant, Diversified Collection Services, Inc. is a corporation
15 engaged in the business of collecting debt in this state with its principal place of
16 business located in Alameda County at 333 North Canyons Parkway, Suite 100,
17 Livermore, CA 94551. The principal purpose of Defendant is the collection of
18 debts in this state and Defendant regularly attempts to collect debts alleged to be
19 due another.
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21

22 5. Defendant is engaged in the collection of debts from consumers using
23 the mail and telephone. Defendant regularly attempts to collect consumer debts
24 alleged to be due to another. Defendant is a “debt collector” as defined by the
25 FDCPA, 15 U.S.C. § 1692a(6), and the Cal. Civ. Code § 1788.2.
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FACTS

6. Upon information and belief, within one year prior to the filing of this complaint, Defendant placed collection calls to Plaintiff, seeking and demanding payment for an alleged consumer debt owed under an account number.

7. The debt that Defendant is attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

8. Upon information and belief, Defendant began contacting Plaintiff and placing collection calls to Plaintiff sometime prior to June of 2012.

9. Upon information and belief, within one year from the filing of this complaint, Defendant called Plaintiff, and lied and/or mislead her; threatening to garnish her son's wages itself when it cannot do so.

10. As a result of the acts alleged above, Plaintiff suffered emotional distress resulting in her feeling stressed.

COUNT I – FDCPA

11. Plaintiff repeats and realleges and incorporates by reference to the foregoing paragraphs.

12. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:

1 (a) Defendant violated §1692f of the FDCPA by using unfair or
2 unconscionable means in connection with the collection of an alleged
3 debt; and

4
5 (b) Defendant violated §1692e(2)(B) of the FDCPA by falsely
6 representing the services rendered or compensation which may be
7 lawfully received by the Defendant for the collection of the alleged
8 debt; and

9
10 (c) Defendant violated §1692e(5) of the FDCPA by threatening to take
11 action that it did not intend to take; and

12
13 (d) Defendant violated §1692e(10) of the FDCPA by using false,
14 deceptive, or misleading representation or means in connection with
15 the collection of Plaintiff's alleged debt.
16

17 13. As a result of the foregoing violations of the FDCPA, Defendant is
18 liable to the plaintiff Cynthia Berry for declaratory judgment that Defendant's
19 conduct violated the FDCPA, actual damages, statutory damages, and costs and
20 attorney fees.
21

22
23 **COUNT II – RFDCPA**

24 14. Plaintiff repeats and realleges and incorporates by reference the
25 foregoing paragraphs.
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1 15. Defendant violated the RFDCPA. Defendant's violations include, but
2 are not limited to the following:

3 (a) Defendant violated §1788.12(a) of the RFDCPA by
4 communicating to Plaintiff's employer regarding Plaintiff's alleged
5 debt for purposes not concerning verifying debtor's employment,
6 locating the debtor, or attempting to affect post-judgment garnishment
7 of Plaintiff's wages; and
8

9 (b) Defendant violated §1788.17 of the RFDCPA by being a debt
10 collector collecting or attempting to collect a consumer debt that is not
11 compliant with the provisions of Sections 1692b to 1692j of the
12 FDCPA, the references to federal codes in this section referring to
13 those codes as they read as of January 1, 2001.
14
15
16

17 16. Defendant's acts as described above were done intentionally with the
18 purpose of coercing Plaintiff to pay the alleged debt.
19

20 17. As a result of the foregoing violations of the FDCPA, Defendant is
21 liable to the plaintiff Cynthia Berry for declaratory judgment that Defendant's
22 conduct violated the FDCPA, actual damages, statutory damages, and costs and
23 attorney fees.
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1 WHEREFORE, Plaintiff Cynthia Berry respectfully requests that judgment be
2 entered against defendant Diversified Collection Services, Inc. for the following:

3 A. Actual damages.

4 B. Statutory damages pursuant to 15 U.S.C. § 1692k.

5 C. Statutory damages pursuant to Cal. Civ. Code § 1788.30.

6 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and
7 Cal. Civ. Code § 1788.30.

8 E. For such other and further relief as the Court may deem just and proper.
9

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13 RESPECTFULLY SUBMITTED,

14 DATED: June 13, 2012

PRICE LAW GROUP APC

15
16 By: 

17 G. Thomas Martin, III
18 Attorney for Plaintiff

19 **DEMAND FOR JURY TRIAL**

20 PLEASE TAKE NOTICE that Plaintiff, CYNTHIA BERRY demands trial
21 by jury in this action.
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